

IN THE CIRCUIT COURT OF THE CITY OF ST. LOUIS

STATE OF MISSOURI, ex rel.)	
JEREMIAH W. (JAY) NIXON,)	
Attorney General,)	
)	
Plaintiff,)	
)	
v.)	Case No. 972-1465
)	
AMERICAN TOBACCO COMPANY, INC.,)	
et al.,)	
)	
Defendants.)	

NOTICE OF STATE SPECIFIC FINALITY

Comes now Jeremiah W. (Jay) Nixon, Attorney General of the State of Missouri, and gives notice that Missouri has achieved State Specific Finality as that term is defined in the settlement agreement dated November 23, 1998, between the State of Missouri and fifty other states and territories on the one hand, and certain manufacturers of tobacco products on the other (the "Master Settlement Agreement"). In support of this Notice, the Attorney General states as follows:

1. On May 12, 1997, the State of Missouri filed this action against numerous defendants engaged in the manufacture, distribution, sales and marketing of tobacco products in the State of Missouri.

2. On November 28, 1998, Attorney General Nixon signed the Master Settlement Agreement on behalf of the State of Missouri.

3. On December 11, 1998, the Attorney General and certain settling defendants filed the Master Settlement Agreement in this Court, together with motions to stay all further litigation proceedings, to approve the Master Settlement Agreement, to enter the Consent Decree and Final Judgment set forth therein, and to enter the agreed Dismissal Order and Judgment.

4. Subsequently, motions to intervene were filed on behalf of:

- a. The City of St. Louis and a consortium of more than fifty public and private hospitals and hospital associations;
- b. St. Louis County;
- c. Kansas City;
- d. Jackson County;
- e. Sherry Neel, a taxpayer;
- f. Helen Cheeks and Terry Gatlin, on behalf of themselves and a class of all current and former smokers; and
- g. Margie D. Coleman, survivor of Elvis M. Coleman.

5. On March 5 and March 24, 2000, this Court approved the Master Settlement Agreement as filed, and entered the Consent Decree and Final Judgment and the Agreed Dismissal Order and Judgment contemplated by the Master Settlement Agreement.

6. On March 5 and March 26, 2000, this Court entered orders denying each of the motions to intervene referred to above.

7. Subsequently, Notices of Appeal were filed on behalf of the following would-be intervenors:

- a. The City of St. Louis and a consortium of more than fifty public and private hospitals and hospital associations;
- b. Sherry Neel, a taxpayer;
- c. Helen Cheeks and Terry Gatlin, on behalf of themselves and a class of all current and former smokers; and
- d. Margie D. Coleman, survivor of Elvis M. Coleman.

8. On January 18, 2000, the Eastern District of the Missouri Court of Appeals affirmed this Court's disposition of each of the appellants' motions to intervene.

9. On April 25, 2000, the Missouri Supreme Court granted the applications to transfer that had been filed on behalf of the following would-be intervenors:

- a. The City of St. Louis and a private hospital;
- b. Sherry Neel, a taxpayer;
- c. Helen Cheeks and Terry Gatlin, on behalf of themselves and a class of all current and former smokers; and
- d. Margie D. Coleman, survivor of Elvis M. Coleman.

10. On December 12, 2000, the Missouri Supreme Court affirmed this Court's disposition of each of the appellants' motions to intervene.

11. On January 23, 2000, the Missouri Supreme Court denied all motions for rehearing.

12. The period for petitioning the United States Supreme Court for a writ of certiorari or for an extension of time within which to seek such a writ has now passed and, to the Attorney General's knowledge, no such petitions have been filed or extensions sought.

13. The Master Settlement Agreement defines State Specific Finality as follows:

(ss) "State-Specific Finality" means, with respect to the Settling State in question:

(1) this Agreement and the Consent Decree have been approved and entered by the Court as to all Original Participating Manufacturers, or, in the event of an appeal from or review of a decision of the Court to withhold its approval and entry of this Agreement and the Consent Decree, by the court hearing such appeal or conducting such review;

(2) entry by the Court has been made of an order dismissing with prejudice all claims against Released Parties in the action as provided herein; and

(3) the time for appeal or to seek review of or permission to appeal ("Appeal") from the approval and entry as described in subsection (1) hereof and entry of such order described in subsection (2) hereof has expired; or, in the event of an Appeal from such approval and entry, the Appeal has been dismissed, or the approval and entry described in (1) hereof and the order described in subsection (2) hereof have been affirmed in all material respects by the court of last resort to which such Appeal has

been taken and such dismissal or affirmance has become no longer subject to further Appeal (including, without limitation, review by the United States Supreme Court).

Master Settlement Agreement, Section II(cc).

14. Under this definition, Missouri has now achieved State Specific Finality.

15. Moreover, in its opinion disposing finally of all would-be intervenors' claims, the Missouri Supreme Court stated: "We further conclude that the [Master Settlement Agreement] achieves "State Specific Finality" upon this opinion becoming final." *State ex rel. Nixon v. American Tobacco Co.*, 34 S.W.3d 122, 137 (Mo. banc 2000).

16. The Missouri Supreme Court's opinion is now final because it is "no longer subject to further Appeal (including, without limitation, review by the United States Supreme Court)." ***Master Settlement Agreement***, Section II(cc)(3).

Accordingly, under the Missouri Supreme Court's own declaration and application of

the terms of the Master Settlement Agreement, State Specific Finality has been achieved.

Respectfully submitted,

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